

CITY OF OPA-LOCKA

"The Great City"

CLERK'S ACTION SUMMARY MINUTES SPECIAL COMMISSION MEETING

February 22, 2012

6:25 P.M.

Opa-locka Municipal Complex
780 Fisherman Street, 2nd Floor
Opa-locka, FL 33054

1. ROLL CALL:

Mayor Taylor called the meeting to order at 6:34 p.m. on Wednesday, February 22, 2012 on the 2nd Floor of the Opa-locka Municipal Complex, 780 Fisherman Street, Opa-locka, Florida. The following members of the Opa-locka City Commission were present: Commissioner Rose Tydus, Commissioner Timothy Holmes, and Mayor Myra L. Taylor. Commissioner Gail E. Miller arrived at 6:34 p.m. Commissioner Dorothy Johnson arrived at 6:50 p.m. Also in attendance were: City Manager Bryan K. Finnie, City Attorney Joseph S. Geller, and Interim City Clerk Joanna Flores.

2. INVOCATION:

The Invocation was delivered by Commissioner Rose Tydus.

3. PLEDGE OF ALLEGIANCE:

The Pledge of Allegiance was recited in unison.

4. RESOLUTIONS/PUBLIC HEARING

A. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF OPA-LOCKA, FLORIDA, TO DETERMINE SEVERANCE PAY FOR CITY MANAGER BRYAN K. FINNIE IN THE EVENT OF HIS RESIGNATION; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.

Sponsored by M.T.

The above resolution was read by title by Attorney Geller.

A motion to approve this resolution was made by Commissioner Holmes. The motion died for lack of a seconded.

B. PUBLIC HEARING – POSSIBLE REMOVAL OF THE CITY MANAGER PURSUANT TO SECTION 10 OF THE CHARTER OF THE CITY OF OPA-LOCKA, FLORIDA, THE CITY COMMISSION WILL CONSIDER POSSIBLE REMOVAL OF CITY MANAGER BRYAN K. FINNIE, BASED ON ALL CHARGES MADE AGAINST HIM AT THE PREVIOUS COMMISSION MEETING (AND ON FILE WITH THE CITY CLERK'S OFFICE) AND AFTER

THE CITY MANAGER HAS BEEN GIVEN AN ADEQUATE OPPORTUNITY TO ANSWER ALL SUCH CHARGES.

Mayor Taylor opened the floor for a public hearing. There were no public comments made on the public hearing.

Manager Finnie approached the podium to verbally respond to the charges against him. (A written copy of the list of charges and responses submitted verbally by the City Manager are hereby made a part of these minutes).

Manager Finnie was also addressed by Commissioner Holmes regarding whether or not he was drug tested when he was hired and Manager Finnie stated that he in no way consumes drugs in any fashion. Commissioner Holmes also asked Manager Finnie about security issues at Sherbondy Park. It should be noted that per City Attorney Geller, these 2 issues are **officially stricken from the record**, as they are not part of the original set of charges listed against the City Manager and are therefore outside the purview of this hearing. They will be disregarded by the Commission in their deliberations and decisions for or against Resolution 4C.

Mayor Taylor asked each Commission member for any general comments. There were none offered.

Vice Mayor Johnson asked where money would be coming from any pay out due to resignations or law suits in the future and she would like to see this specifically designated going forward.

Commissioner Holmes stated that since Resolution 4A was not passed it is irrelevant to this discussion.

There was some discussion of previous issues regarding removal of city employees in the past, specifically Ms. Irby. Two specific items mentioned were miscommunications in the amount of money she was entitled to upon leaving her position and whether or not the papers regarding the situation were received by all the Commission members. Commissioner Holmes reiterated that because that situation had already been resolved, discussing Ms. Irby's situation was irrelevant in this meeting.

Commissioner Miller requested that City Attorney read Resolution 4C and a decision be made.

Commissioner Tydus stated that she was more concerned with continuity and stability of city business and that City Manager Finnie had responded to all charges against him in a satisfactory manner. She stated that she was happy to allow Manager Finnie to complete the last 4 months of his contract term and that his status can be reviewed at that time as to his continued employ with the city.

C. A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF OPA-LOCKA, FLORIDA, TO REMOVE BRYAN K. FINNIE AS THE CITY MANAGER, FOR THE REASONS SET FORTH HEREIN; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE. *Sponsored by T.H.*

The resolution was read by title by Attorney Geller.

It was moved by Commissioner Holmes, (Mayor Taylor relinquished the gavel to Vice Mayor Johnson) seconded by Mayor Taylor to pass the resolution.

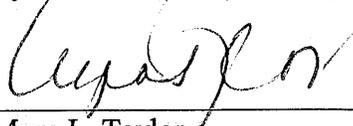
There being no discussion, the motion failed by a 3-2 vote.

Commissioner Holmes	Yes
Commissioner Tydus	No
Commissioner Miller	No
Mayor Taylor	Yes
Vice Mayor Johnson	No

Vice Mayor Johnson returned the gavel to Mayor Taylor.

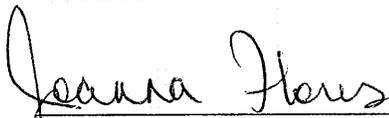
8. ADJOURNMENT:

There being no further business to come before the City Commission, it was moved by Vice Mayor Johnson and seconded by Commissioner Holmes to adjourn the meeting at 7:50pm.



Myra L. Taylor
MAYOR

ATTEST:



Joanna Flores
INTERIM CITY CLERK

1. CM wants to get rid of the Code Enforcement Department
2. CM has taken away vehicles from half of the employees in the Code Enforcement Department
3. CM failed to ensure that businesses post the "No Saggy Pants" sign in their establishment as per city ordinance and many requests; this would also bring additional revenue to the city.
4. CM failed to act on the numerous requests for an inquiry into Johnson Controls.
5. CM failed to look into an early retirement package for employees as requested.
6. Commissioner Barbara Jordan assisted the city in the award of 2 Million Dollars for Historic City Hall and nothing is being done with those dollars.
7. Employees got fired, went to court and won their cases when it could've been settled prior to going to court if the city had somebody to review the cases and do justice after the Civil Service Board made their ruling. The CM has also disregarded the court orders.
8. Has failed to repair low area on NW 151st Street at NW 32nd Avenue even after several requests.
9. CM failed to provide information on city bank accounts as requested by his colleague at the last commission meeting (12/14/2011).
10. Mayor provided documentation from the county that the city was able to move into Sherbondy Village and now at the last hour the CM provided documentation saying the city cannot move into Sherbondy Village. The city manager is aware that by moving out of Town Center the city could be saving over \$500,000.00 per year, but has failed to look into or provide recommendations for relocating.
11. Previous complaints of mold at Historic City Hall were not addressed in a timely fashion.
12. The pump stations not being addressed expeditiously and the RFP for pump stations is sitting on the CM's desk.
13. Decrease in employee morale; CM use of profane language and disrespect when speaking to employees.
14. CM failed to make sure parking spaces were included for the Sherbondy Park project.
15. Failure to move forward with the improvements/construction at Segal Park after grant award.
16. CM knowledge of staff member representing himself as a councilman and meeting with the county about getting rid of the city's building & license department when that department is bringing revenue to the city and without Commission approval and/or knowledge of what was taking place.
17. CM delegation of duties while he was away and interfering with the decision made relating to Finance by the Acting City Manager.
18. Terminated the city's Building Director, had him escorted out by police. Failed to provide the Commission with a reason why, but the Commission has the right to know.
19. Failure to repair existing potholes on Ali-baba Avenue near Robert B. Ingram Elementary School since last month.
20. Nothing has been done to repair the road – Ali-baba Avenue from NW 22nd Avenue to NW 27th Avenue.
21. Lied numerous of times concerning several matters



City of
OPA-LOCKA
Florida

Bryan K. Finnie
City Manager

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MEMORANDUM

To: Mayor Myra L. Taylor
Vice Mayor Dorothy "Dottie" Johnson
Commissioner Timothy Holmes
Commissioner Rose Tydus
Commissioner Gail E. Miller

From: Bryan K. Finnie, City Manager

Date: February 22, 2012

RE: **Responses to Revised List Charges Against City Manager**

Below you will find information in response to charges placed against me at the February 8, 2012 Commission Meeting.

1. CM wants to get rid of Code Enforcement Department

Response: The City Commission authorized the City Manager to explore cost savings and privatization alternatives pertaining to the City's Code Enforcement Department on November 9 2011 through Resolution 11-8302. The City Manager carried out the wishes of the City Commission by releasing proposals through an RFP as specifically referenced in the Resolution. A copy of Resolution 11-8302 is attached.

2. CM has taken away vehicles from half of the employees in the Code Enforcement Department

Response: The number of vehicles used was reduced as a cost saving measure and need to assure that the administrative aspects of each Code Enforcement Officer's tasks were being consistently addressed. Work schedules have also shifted in order to accommodate the current shortage of two employees within the Department.

3. CM failed to ensure that businesses post the "No Saggy Pants" sign in their establishment as per City Ordinance and many requests; this would also bring additional revenue to the City.

Response: Though Commissioner Holmes has directed staff to link the "No Saggy Pants" signs as a fund raising strategy for the City of Opa-locka, the City does not have the legal authority to force businesses within the City to purchase such a sign. This was explained on page two of my memo dated January 24th in response to Commissioner Holmes' comments, which is attached.

4. CM failed to act on the numerous requests for an inquiry into Johnson Controls

Response: This complex issue is currently being worked on by my staff and the City Attorney's Office as explained in detail on pages one and two of my January 24th memorandum to the Mayor and City Commission in response to Commissioner Holmes' concerns, which is attached. We do have a consultant scheduled to review our system on January 27, 2012 and give feedback to the administration.

Johnson Control, Inc. was hired in July 2006 on a non-bid basis for \$3,702,697 which includes an eight year service agreement, to replace the City of Opa-locka's entire water reading meter system.

Please be advised that this was prior to my first tour as Interim City Manager and I did not recommend to the Commission the approval of this agreement. To date, the current system installed is not operational due to several issues, including the quality of the product and the lack of knowledge by staff. Issues with the product include the easy dismantling of the electronic reader by pulling exposed wires going from the electronic reader to the register and a higher than expected percentage of inaccurate reads due to the register being a pulse and not digital. Internal issues, such as not all staff being trained to use the product and a basic lack of institutional knowledge of what has occurred pertaining to this contract, have plagued staff's ability to resolve this issue earlier. One example of this includes that when asked by our legal counsel for a basic timeline of events documenting the progress, or lack of, regarding this contract to show the level of culpability by all parties and possibly gauge if a legal remedy is feasible, staff was not able to produce such a document. On a side note, other issues such as illegal water usage are also being handled by staff, including the decision to purchase a tougher locking bracket to be placed on the curb stop in order to prevent tampering with water lines that have been locked due to non-payment or closed accounts. To date, the initial locks purchased were not the correct size. Staff has returned those locks and is expected to receive the correct locks in February. It should be noted that former City Manager, Jannie Beverly, oversaw the initial implementation, including a processed request for a complete change out of the initially purchased product. At the time I became Interim City Manager, the project was nearly complete and our Information Technology Department was testing the program for accuracy of electronic verses manual readings. It is my understanding that my current predecessor, former City Manager, Clarence Patterson, had determined last year that the City needed to revisit the terms and conditions of this transaction and renegotiate a better deal for the City of Opa-locka due to the nonperformance of the product.

5. CM failed to look into and early retirement package for employees as requested

Response: The basis for an early retirement program is to achieve cost savings by "buying out" expensive employees. Presently, the General Fund is not capitalized at the needed level to fund a city-wide Early Retirement Program. As stated previously, this issue was also addressed on page two of my January 24th memorandum to the Mayor and City Commission in response to Commissioner Holmes' concerns, which is attached.

6. Commissioner Barbara Jordan assisted the City in the award of \$2 million for Historic City Hall and nothing is being done with those dollars

Response: On December 10, 2010, the City of Opa-locka was awarded \$2,000,000 through the County's General Obligation Bond (GOB) program, to be utilized in Fiscal Year 2011. Due to the inaction of the City, such funding never accessed. Under my direction, City Staff is currently working on the necessary steps in order to draw down the funding in FY 2013. This issue was also explained on page two of my January 24th memorandum to the Mayor and City Commission in response to Commissioner Holmes' concerns, which is attached.

7. Employees got fired, went to court and won their cases when it could have been settled prior to going to court if the City had somebody to review the cases and do justice after the Civil Service Board made their ruling. The CM has also disregarded to court orders

Response: Based on my discussions with the City Attorney, there has been only one (1) case that the court has requested a settlement during my tenure. The court entered judgment on January 25, 2012. Immediately after, the City reached a settlement. The settlement was approved by the City Commission at the February 8, 2012 Commission Meeting.

Please be advised that "but for" a flurry of Police Department lawsuits, all other Civil Service related cases will be addressed. It must be noted that the lawsuit was not about the merits of the employee dismissed, rather it was about the Civil Service Board challenging the decision of the City's Administration. This issue was also explained on page two of my January 24th memorandum to the Mayor and City Commission in response to Commissioner Holmes' concerns, which is attached.

8. Has failed to repair low area on NW 151st Street at NW 32nd Avenue even after several requests

Response: Upon my initial receipt of this information at the Commission Meeting, the Public Works Department was directed to address this complaint. The repair of the low area on NW 151st Street at NW 32nd Avenue was completed by Public Works on January 24, 2012.

9. CM failed to provide information on City bank accounts as requested by his colleague at the last Commission Meeting (12/14/11).

Response: The City's itemized bank accounts and levels of funding were provided on at least two occasions. First, via a memorandum to the Mayor and City Commission dated December 16th, two days after the inquiry was first made. A second memorandum to the Mayor and City Commission, dated January 12th, was provided. Both documents are attached.

10. Mayor provided documentation from the County that the City was able to move into Sherbondy Village and now at the last hour the CM provided documentation saying the City cannot move into Sherbondy Village. The City Manager is aware that by moving out of Town Center, the City could be saving over \$500,000 per year, but has failed to look into or provide recommendations for relocating

Response: The Mayor's directive was for the City Manager to initiate relocation of the City's Administration from Town Center to the Sherbondy Park Village. It has been noted that utilizing the building for governmental purposes is not an eligible activity from the perspective of the Federal Community Development Block Grant (CDBG) program and doing so could lead to a six-figure fine to the City of Opa-locka. My memorandum to the Mayor and City Commission dated January 11th explains the issue and included the County's official response on January 4th and my original request for clarification to the County sent on December 6th. All documents are attached.

Despite this setback, I also researched and submitted two (2) possible alternatives to Town Center. Such findings were submitted to the Mayor and City Commission via memorandum on January 31st which is attached.

11. Previous complaints of mold at Historic City Hall were not addressed in a timely fashion

Response: The concern of mold at Historic City Hall was timely addressed earlier this year, as documented in my memorandum to the Mayor and City Commission on January 10th explaining that a mold and moisture evaluation was conducted days earlier and a report would be forthcoming. On January 24th I sent a second memorandum to the Mayor and City Commission making you aware of the findings of the independent report. Both memorandums are attached.

Originally, during my 2009 term as Interim City Manager, I began the process of acquiring the equipment necessary to relocate the City Commission Meetings to Town Center. Upon my departure the planned move did not proceed.

12. The pump stations are not being addressed expeditiously and the RFP for Pump Stations is sitting on the CM's desk

Response: Last year, the City of Opa-locka completed Lift Stations #1 and #2. Though not planned under my watch, they were both constructed from June through August of last year. From my original departure in January of 2010 through June of 2011, not one Lift Station, out of 13 that I identified to the then Mayor and City Commission, had been completed. In fact, in 2010, while I was not City Manager, no work was actually done on any Lift Station, including plans, designs, or project bidding.

Upon my return, I have again made the rehabilitation and upgrade of our Lift Stations one of my highest priorities. This Fiscal Year, we intend on completing four Lift Stations. #11A will start construction in March, #11C and #10 are both in the procurement process and #5 which is a Public Private Partnership (PPP), will also be completed this Fiscal Year. Due to my FY 2009 original plan to complete all 13 Lift Stations in 2009 not being followed by my replacement, I cannot guarantee that we will be successful in rehabilitating or upgrading all 13 original Lift Stations by 2013.

13. Decrease in employee morale; CM use of profane language and disrespect when speaking to employees

Response: In terms on employee morale, I will be recommending to the City Commission that a professional study be conducted to determine the state of morale within the ranks of all City employees.

In my day-to-day activities, I try to respect all people, but also understand that, on occasion, I have displayed levels of frustration, not at individuals but at situations of non-performance or below par work product. I have worked on that aspect of my professionalism and will continue on into the future.

14. CM failed to make sure parking spaces were included for the Sherbondy Park Project

Response: I was not the City Manager when the Sherbondy Park Project's final plans were developed. During my departure, City staff, including the building department through the issuance of permits, oversaw the project. Twenty-two (22) of the twenty-eight (28) permits issued were done under the watch of the previous City Manager. The Building Official, and his staff, is responsible for all plan approvals and compliance with the Florida Building Code and City Code of Ordinances, this includes all parking requirements. Copies of all permits pertaining to the Sherbondy Park project and an itemized list are included as attachments.

15. Failure to move forward with the improvements / construction at Segal Park after grant award

Response: It was noted that there was delay in the Segal Park Project. There is no delay. Please be advised that staff has been working with Miami-Dade County to secure project funding (approved September 2011); and we received approval from the Opa-locka City Commission on December 14, 2011 to commence the environmental review process. This project is proceeding as planned.

This concern was addressed on page three of my January 24th memorandum to the Mayor and City Commission in response to Commissioner Holmes' concerns, which is attached.

16. CM knowledge of staff member representing himself as councilman and meeting with the County about getting rid of City's Building & License Department when the Department is bringing revenue to the City and without Commission approval and/or knowledge of what was taking place

Response: Management disagrees with the conclusions reached during an informal discussion about a meeting that had previously occurred. The County official described someone in the meeting as an elected official. It was an innocent comment. Please be advised that at no time did anyone on my staff represent themselves as an elected official of the City of Opa-locka.

17. CM delegation of duties while he was away and interfering with the decision made relating to Finance by the Acting City Manager

Response: When I delegate City Manager duties, I do not abrogate my responsibility to the City of Opa-locka and I certainly would not support an organization restructure without my approval or a pre-briefing to the Commission.

18. Terminated the City's Building Director, had him escorted out by Police. Failed to provide the Commission with a reason why, but the Commission has right to know

Response: Mr. Daniel Abia was terminated on for not having the necessary qualifications to perform his job. As you may know, Mr. Abia was promoted to become the Building Official on February 8, 2010. Due to his specific circumstance, he was allowed by the Board to receive a Provisional Building Code Administrator's License on June 19, 2008 in order to function as the City's Building Official, as per State Statute and County Code. This one-time license expired on June 18, 2011. Despite his failure to secure a Building Code Administrator's License before his Provisional License expired, I allowed Mr. Abia to remain on staff while Mr. Paul Gioa temporarily served as the City's Building Official. After an additional period elapsed, with no Building Code Administrator's License, or even an application filed with the Board for the License, I made the determination that Mr. Abia was not either willing or capable of receiving such a license considering that he had over three and a half years to obtain it. It should also be noted that after his Provisional Building Code Administrator's License expired on June 18, 2011, Mr. Abia had not a single license that could be used to perform official duties for the City in the Building Department. All Building Departments are required to have the following positions filled either through full or part time staff or consultants: Building Code Administrator.

Human Resources Director, Shirley Freeman, not Officer's from the Police Department, secured City owned property and Mr. Abia was allowed to secure his own personal property while under the supervision of Mrs. Freeman. For the record, Mrs. Freeman even drove Mr. Abia home.

19. Failure to repair existing potholes on Ali-Baba Avenue near Robert B. Ingram Elementary School since last month.

Response: According to Public Works, the recent potholes on Ali Baba were due to a water break which was fixed last Friday. Staff is in the process of getting a contractor to restore the road, which should be completed within a week. Due to the inability to locate the appropriate turn off valve, public works staff was unable to resolve the issue expeditiously.

20. Nothing has been done to repair the road – Ali-Baba Avenue from NW 22nd Avenue to NW 27th Avenue

Response: Ali Baba Avenue from NW 22 Avenue to NW 27th Avenue needs reconstruction as the roadway surface is undulated due to poor load bearing capacity of the pavement. The sub-base does not have proper compaction to support the pavement. The pavement must be redesigned with appropriate base improvements to increase its load bearing capacity. It is recommended that we reconstruct the road along with an improved drainage system. Such improvements may cost about \$1,000,000, as per our City Engineer's preliminary opinion of probable construction costs. This project is on our five (5) year capital improvement plan but remains unfunded due to lack of resources.

21. Lied numerous times concerning several matters

Response: I have not knowingly made any misstatement.

Attachments

END OF MEMORANDUM